

1 REVISED DRAFT PROPOSAL
2 RESOLUTION ESTABLISHING AN ECONOMIC
3 DEVELOPMENT FINANCIAL ASSISTANCE AND
4 INCENTIVE POLICY FOR JOB CREATION, JOB
5 RETENTION AND CAPITAL INVESTMENT
6

7 WHEREAS, the City Council finds that the use of City funds to promote capital investment and
8 the creation and retention of jobs will increase taxable property and the business prospects of the
9 City of Durham;

10
11 NOW, THEREFORE, BE IT RESOLVED that the City of Durham hereby adopts the following
12 economic development Job Creation and Retention and Investment Incentive Policy:
13

14 1. Definitions.
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16 a. The “Community Development Area” (CDA) is identified as such on the map titled
17 “The Durham Community Development Area, Targeted CDA Corridors, the Downtown
18 Development Tier and the Parrish Street Project Area,” dated April 2010, which is kept in
19 the Office of Economic and Workforce Development or such other location as the City
20 Manager may direct, and hereinafter referred to as the “Development Map.”
21

22 b. “Targeted CDA Corridors” are those properties with at least one building entrance on
23 the streets identified on the Development Map as “Targeted CDA Corridors,” within the
24 Community Development Area.
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26 c. “Downtown Development Tier” is the area identified in the Downtown Design
27 District Map as the proposed tier that was approved by City Council on February 1, 2010
28 as an ordinance to amend provisions of the Unified Development Ordinance regulating
29 Downtown zoning and which area is identified as “Downtown Development Tier” on the
30 Development Map.
31

32 d. “Targeted Areas beyond the CDA” (refers to the area formerly named Urban Growth
33 Area –UGA) is a geographic area identified on the map prepared by GIS on 5/3/2013
34 entitled Targeted Neighborhood Community Development; Commercial Area Map.
35

36 e. “Targeted Industry” shall be the industry segments identified by the Department of
37 Commerce’s Labor and Economic Analysis Division.
38

39 f. “Parrish Street Project Area” is the area shaded in orange on the Development Map
40 and includes only those properties with a building entrance on Parrish Street, North
41 Corcoran Street, Market Street, #26 Alley, Orange Street, Mangum Street, #24 Alley, and
42 North Church Street.
43

44 g. “Ninth Street Compact Neighborhood-Commercial District” is the commercial
45 district that runs along Ninth and Iredell from West Main on the south to Green on the
46 north and adjacent streets from Ninth on the West to Broad on the East (but excluding
47 Broad Street) that include Perry, Markham, and Green and Safeway.
48

49 h. Where this policy requires a site to be in the CDA or other area, it must be in that area
50 on the date of approval of the incentive agreement.
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52 i. The term “business” in this resolution includes not-for-profit activities.
53

j. Recommended targeted community development areas refer to those areas targeted for special economic incentive initiatives and shown on the map titled “The Durham Community Development Area, Targeted CDA Corridors, The Downtown Development Tier and the Parrish Street Project Area,” dated April 2010, which is kept in the Office of Economic and Workforce Development or such other location as the City Manager may direct, and hereinafter referred to as the “Durham Community Development Area (CDA) map.

2. Incentive Programs. A project can qualify for incentives under this policy in any of the following ways:

a. Small Development Projects within the CDA and Targeted Areas beyond the CDA.

(i) Capital Investment. The project directly creates, in the CDA and Targeted Areas beyond the CDA, within 2 years of the City’s approval of the agreement, at least \$300,000 in non-residential capital investment. The project must be developed by the business entity that owns the property or its agent; however the development agreement shall be between the City and the property owner.

(ii) Total Maximum Incentives Amounts. The incentive may be up to 4.5% of the non-residential capital investment, but not more than \$1,000,000.

b. Mid-size Projects within a CDA.

(i) Capital Investment. The project directly creates, in a CDA, within 3 years of the City’s approval of the agreement, at least (A) \$500,000 in non-residential capital investment, or (B) any amount of non-residential capital investment less than \$500,000 and at least 10 full-time jobs, or (C) \$500,000 in non-residential capital investment and at least 10 full-time jobs.

(ii) Total Maximum Incentive Amounts.

If the incentive is based on part 2(b)(i)(A) above, the incentive may be up to 3% of the non-residential capital investment, but not more than \$1,000,000. If the incentive is based on part 2(b)(i)(B) above, the total incentive (including job incentives) may be up to 3% of the non-residential capital investment, but not more than \$1,000,000. If the incentive is based on part 2(b)(i)(C) above, the total incentive (including job incentives) may be up to 6% of the non-residential capital investment, but not more than \$2,000,000.

(iii) Job Creation. To be eligible for job creation incentives, the project must directly create, within 2 years of the City’s approval of the agreement, at least 25 jobs in any of the following categories:

Targeted Industries as defined under section 1 (e), hotels and the following facility types: corporate headquarters, office uses, healthcare facilities, research and development operations, manufacturing, assembly, fabrication, processing operations, warehouse or distribution operations, business incubators and the commercial component of mixed-use developments.

Job Incentive Amount. The incentive may be up to \$2,500 per jobs created, but not more than \$1,000,000 of the total maximum incentive amount.

(iv) Job Retention. The firm retains more than 100 jobs during the 5-year period beginning on the date of the Council's approval of the agreement.

Job Incentive Amount. The incentive may be up to \$2,500 per jobs retained, but not more than \$1,000,000. If an incentive agreement provides for payments for job retention and job creation under this Section 2(b), the total incentive payment shall not exceed \$1,000,000.

c. Major Property Investments within a CDA. Within 10 years of the Council's approval, the project (i) directly results in capital investment of at least \$45,000,000 in mixed-use development within a CDA, or (ii) directly results in capital investment of at least \$10,000,000 in mixed-use development within a CDA and the project is an addition to a project that was previously incentivized either pursuant to this subsection (c) or pursuant to the Downtown Historically Significant Property subsection of previous versions of this resolution. Notwithstanding Section 3(b) (Types of Expenditures), expenditures made under this subsection (c) must be in property that is assessable for real property tax purposes, rather than equipment, personal property, or otherwise. Such expenditures may include related engineering and design fees, as well as associated development fees that are charged by the City.

Amount and Nature of Incentives. The incentive may be up to the lesser of 16% of the capital investment or \$10,000,000. However, the 16% and \$10,000,000 limits stated in the preceding sentence may be exceeded to the extent required to offset increases in rates for parking spaces that are leased by the City of Durham or the County of Durham. The incentives may be in any form allowed by law, including but not limited to conveyances of interests in real property, including but not limited to, transfers of real property at no charge or at less than market rate, options to purchase City-owned real property, leases of City-owned real property at no rent or rent at less than market rate, and agreements to construct and provide parking spaces in parking garages.

d. Targeted Areas beyond the CDA.

(i) Capital investment and Job Creation. The project directly creates within the the city limits, but outside the CDA , within 3 years of the Council approval of the agreement, at least \$20,000,000 in non-residential capital investment or 100 jobs, unless the job creation is within a Targeted Industry, in which case the job threshold will be reduced to 50.

(ii) Total Maximum Incentive Amounts. If the incentive is based on only the capital investment, the incentive may be up to 1.5% of that capital investment, but not more than \$1,000,000.

If the incentive is based solely on the creation of jobs, the incentive may be up to 1.5% of the non-residential capital investment in the project created within 3 years of the City's approval of the agreement, but not more than \$1,000,000.

If the incentive is based on the capital investment and jobs creation, the incentive may be up to 3% of the non-residential capital investment in the project created within 3 years of the City's approval of the agreement, but not more than \$2,000,000.

(iii) Job Retention. The firm retains more than 100 jobs during the 5-year period beginning on the date of the Council's approval of the agreement.

Job Incentive Amount. The incentive may be up to \$2,500 per jobs retained, but not more than \$1,000,000. If an incentive agreement provides for payments for job retention and job creation under this Section 2(d), the total incentive payment shall not exceed \$1,000,000.

e. Targeted Areas Outside the CDA.

(i) Capital Investment and Job Creation. The project directly creates, outside the City Limits and outside of a CDA, within 3 years of the Council approval of the agreement, at least \$25,000,000 in non-residential capital investment or 150 jobs, unless the job creation is within a Targeted Industry, in which case the job threshold will be reduced to 100.

(ii) Total Maximum Incentive Amounts. If the incentive is based on only the capital investment, the incentive may be up to 1.5% of that capital investment, but not more than \$1,000,000.

If the incentive is based solely on the creation of jobs, the incentive may be up to 1.5% of the non-residential capital investment in the project created within 3 years of the City's approval of the agreement, but not more than \$1,000,000.

If the incentive is based on the capital investment and job creation, the incentive may be up to 3% of the non-residential capital investment in the project created within 3 years of the City's approval of the agreement, but not more than \$2,000,000.

(iii) Job Retention. The firm retains more than 100 jobs during the 5-year period beginning on the date of the Council's approval of the agreement.

Job Incentive Amount. The incentive may be up to \$2,500 per job retained, but not more than \$1,000,000. If an incentive agreement provides for payments for job retention and job creation under this Section 2(e), the total incentive payment shall not exceed \$1,000,000.

f. Neighborhood Revitalization Fund Project within the CDA (outside Downtown), Targeted Portions of the CDA and Targeted Areas beyond the CDA. Within 1 year after the City's approval of an incentive agreement, a business makes capital investments as part of a Neighborhood Revitalization Fund Project.

(i) Amount of Incentives. For non-residential capital investments by a business qualified under the Neighborhood Revitalization Fund Program, the incentive may be up to 50% of the total capital investment made for a total incentive payment not to exceed \$500,000.00. Incentive payments are to be made only for expenditures of qualified capital investment after the investment has been made.

(ii) Incentive Agreement Conditions. An incentive agreement negotiated for a Neighborhood Revitalization Fund Project shall require full performance of a project pursuant to the incentive agreement and appropriate financial mechanisms or tools to ensure the city's ability to recoup public payments in the case of a non-performing project. Such tools may include the structuring of a forgivable loan or conditional grants secured by recorded promissory note and deed of trust or other financial security sufficient to recoup the City's incentive payments for non-performance. Given the unique fact specific circumstances of

each potential project, the precise structure of such a clawback provision will be determined on a case-by-case basis.

g. Building Improvement Grants (BIG) within the Downtown Development Tier, Parrish Street Project Area, the CDA (outside the Downtown Development Tier), Targeted Areas beyond the CDA and in the Ninth Street Compact Neighborhood-Commercial District.

(i) Capital Investment. Within 18 months after the contract execution date (or City Council Approval, if required), a business entity, which owns its own building, directly creates capital investment improvements on an existing building having vacant space(s) for the purpose of improving and/or upgrading the interior and exterior as necessary to make it more rentable or “retail-ready.” The first floor must be included within improvements. These improvements could include window replacements, installations of walls, painting, installation of support mechanisms, HVAC, electrical systems, plumbing, stairs etc. Only building owners would be eligible for this type of incentive. To be eligible for this program, the minimum total project capital investment must be at least \$225,000.00 if within the Downtown Development Tier, \$50,000 if within the CDA (outside the Downtown Development Tier) and \$300,000.00 if in the Targeted Areas beyond the CDA. Projects must be completed no later than 18 months after City approval.

(ii) Amounts of Incentives. The maximum total incentive will be no more than \$75,000.00:

(A) In the Downtown Development Tier, the total available incentive payment shall not exceed 33% of total capital investment project costs;

(B) In the CDA (outside the Downtown Tier), the total available incentive payment shall not exceed 40% of total capital investment project costs; and

(C) Outside the CDA, but within the city limits, the total available incentive payment shall not exceed 25% of total capital investment project costs.

(D) In the Ninth Street Compact Neighborhood-Commercial District, the total available incentive payment shall not exceed 33% of total capital investment project costs;

h. Retail and Professional Services Grants (“RPSG”) within the CDA and Targeted Areas beyond the CDA and in the Ninth Street Compact Neighborhood-Commercial District. Within 1 calendar year after the contract execution date, a business makes or installs qualifying improvements to a building in the CDA or Targeted Areas beyond the CDA or in the Ninth Street Compact Neighborhood-Commercial District. The project property must be a street level retail business, restaurant or certain professional or personal services types such as childcare centers or beauty salons. Projects must be completed no later than 12 months after City approval.

(i) Qualifying Improvements. Funds granted must be spent on interior or exterior sign and façade improvements which will remain on the property and be used for the business. Qualifying Improvements include but are not limited to:

Security systems, telephone systems, point of sale equipment, kitchen equipment, millwork, built-in display furnishings and shelving, HVAC, coolers, plumbing, demolition, flooring, grease traps, sprinkler systems, electrical, installation of walls, package and labeling equipment. Additionally, the eligible exterior sign and facade

portion of the RPSG will be provided for the purpose of assisting business owners with aesthetically enhancing exterior buildings within targeted areas of the community.

Facade improvements must be made to the exterior of one or more sides of the building and/or property visible from a public street or municipal parking lot. At least 50% of improvements must be attributed to costs as listed under (i) Qualifying Improvements a-i below.

Exterior sign and façade projects must be completed no later than 12 months after City approval.

Exterior sign or façade improvements include, but are not limited to:

- a. Restoration, repair, or replacement of windows, doors, exterior walls, chimneys, or other architectural elements;
- b. Exterior painting;
- c. Signage, awnings, marquees, and related exterior lighting and electrical fixtures;
- d. Masonry repair and cleaning;
- e. Non-flat roof repair for portion noticeable from the public line of site;
- f. Exterior work necessary for conversion to a retail or entertainment storefront;
- g. Removal of modern facades, in order to restore back to vintage quality;
- h. Restoration of vintage elements;
- i. Removal of deteriorated building materials, such as plywood or metal;
- j. Property improvements, including landscaping, fencing, screening, and paving ; and
- k. Parking lot improvements

Façade improvements must be consistent with Design Guidelines, development review, streetscapes and enhancement of the pedestrian experience.

(i) Non-eligible Entities. The following are expressly excluded from eligibility for an incentive agreement under this section: government entities and businesses that exclude minors from any portion of the business where adult customers are allowed.

(ii) Amount of Incentives. The incentive may be up to 50% of the cost of the Qualifying Improvements but not exceed \$20,000.00.

3. Capital Investment.

a. Types of Facilities. The capital investments with respect to which an incentive payment under this policy may be made must be within the following lists:

(i) In all Areas: corporate headquarters; office buildings; health care facilities; research and development operations; manufacturing, assembly, fabrication, or processing operations; and warehouse or distribution operations.

(ii) Inside a CDA: All of the uses listed in subsection (i) above, as well as business incubators; hotels; financial institutions; retail operations; and the commercial component of mixed-use developments.

(iii) Major Project Investments within a CDA: All of the uses listed in subsections (i)-(ii) above, as well as residential and parking decks.

b. Types of Expenditures. No payment shall be made with respect to any capital investment, except for design or engineering services, unless the expenditure for the investment is made or incurred after the City approves the incentive agreement. Incentive payments for capital investments may be made with respect to the following, without limitation: on-site and off-site public infrastructure improvements; site preparation; site clearing; grading; installing and/or expanding water and sewer utilities; installing and/or expanding drainage facilities; new construction; rehabilitating and/or demolishing existing structures; facade improvements; streetscape improvements; moving existing utility facilities; constructing sidewalks or walkways; constructing parking facilities; constructing bicycle paths; constructing urban trails; constructing transportation facilities; installing street lighting; improving public open space; and constructing public plazas. The investment may include related engineering and design fees, as well as associated development fees that are charged by the City.

c. Property Taxes. The capital investment must be subject to City and County property taxes from the time when installed or constructed and continuing until the final incentive payment by the City is made with respect to that investment.

4. Standards for Jobs. Unless otherwise specified, any reference in this policy to jobs is to new, full-time, and permanent jobs which are retained for a minimum of at least 12 months from date of creation. A job is new only if it is created after the City's approval of the incentive agreement. Any reference in this policy to job retention refers to full-time, permanent jobs retained for a period of 5 years from after the City's approval of the incentive agreement and as specifically stipulated in the subject incentive agreement. When payment of an incentive is conditioned on the creation of jobs, those jobs must be posted with the Durham JobLink Career Center, and, with regard to both jobs created or jobs retained, the jobs must pay at least the City's prevailing livable wage rate for the period of time required by the incentive agreement. The livable wage rate is set in accordance with Section 18-23 of the City Code. If jobs must be in the CDA or a Targeted CDA Corridor, the majority of the employee's time each week during the applicable time period must ordinarily be spent within the CDA or the Targeted CDA Corridor, as applicable.

5. Payments.

a. Schedule.

(i) Incentive agreements may authorize payments contingent on completion of phases of a multiple-phase project.

(ii) Payments based on capital investment shall be made only after the capital investment has been completed, except to the extent an incentive agreement under Section 2(d) (Major Property Investments within a Community Development Area) provides otherwise.

(iii) If capital investments are subject to the requirement that a certificate of compliance be issued by the Durham City-County Inspections Department, then payment based on that investment shall not be made until a certificate of compliance has been issued, unless the incentive agreement provides otherwise.

(iv) Payments based on job creation or retention shall be made only after the relevant job creation or retention levels have been met and shall be eliminated for any continuous 12-month period in which, for the majority of that 12 month period, whether continuous or not, the relevant employment levels fall below the

required minimum. The number of jobs created will be verified by using a listing of positions created and employees which held those positions which comprise the Qualified Jobs. Listing(s) will be created by the employer, must be attested to by the employer and notarized. Verification of wages will be based upon an employer's quarterly wage reports of employee wages as filed with the NC Department of Commerce. The Office of Economic and Workforce Development, or such other office or department as may be specified by the City Manager, will verify the number of jobs and wages using the listing of positions and employees provided by the employer and a copy of the employer's quarterly wage reports of employee wages as filed with the NC Department of Commerce.

Payment will be based upon certified copies of the employer's unemployment insurance filings with the Employment Security Commission of North Carolina. The Office of Economic and Workforce Development, or such other office or department as may be specified by the City Manager, will verify the number of jobs using a certified copy of the employer's most recent unemployment insurance filing.

- b. Proration. The agreement may provide that the City will prorate the incentive payments according to the percentage of jobs that are created or retained, if the number of jobs created or retained equals or exceeds 85 percent of those agreed to in the agreement. For new jobs, no payment will be made for any continuous 12 month period in which, for the majority of that 12 month period, whether continuous or not, the number of new jobs falls below the 85 percent or higher level set in the agreement. For retained jobs, no payment will be made for any continuous 12 month period in which, for the majority of that 12 month period, whether continuous or not, the number of retained jobs falls below either the 85 percent or higher level set in the agreement or 100.

6. Evaluation Criteria.

- a. Factors. When evaluating requests made under this policy, City Staff and/or City Council shall consider at least these factors: The potential for incentives must be a bona fide inducement to an entity to make capital improvements, relocate, create and/or retain jobs; the amount of new or expansion capital investment; the number and type of jobs to be created, and the corresponding salaries expected to be paid; the type of product or service to be produced or provided; and the location of the proposed development.

- b. Project Evaluation Criteria. Some or all of these evaluation criteria will be used to provide a consistent framework for evaluating proposed development projects.

- (i) For all projects requesting City incentives. Criteria will be used to evaluate the project's viability, need for public assistance and benefit to the general public. The following factors will be considered:

- A. Analysis has determined profitability and viability of project.
 - B. "But for" financial analysis demonstrates need for assistance.
 - C. Clearly documented financial commitments such as letters of interest from investors or banks.
 - D. Level of experience that developer, or development partner, has successfully developed similar projects.
 - E. Developer equity in project, including cash and basis in property
 - Creates sufficient number of permanent jobs based upon the amount of City incentive.

- F. Tax increment revenue, based on current rate, exceeds City incentive.
- G. Increases the tax base of the property being redeveloped.

(ii) For projects proposed in the Downtown Development Tier and Parrish Street Project Area. The following additional factors will be considered for projects to be located in the Downtown Development Tier and Parrish Street Project Area:

- A. Corporate headquarters and other significant office space projects.
- B. Unique project for downtown – e.g. downtown hotel.
- C. Retail use exceeding 1,500 square feet.
- D. Regional draw due to uniqueness of use.
- E. Appropriate rehabilitation of contributing building in a designated historic district or individually listed historic property.
- F. Project is mixed-use.
- G. Commercial space is provided on first floor.
- H. Eliminates a blighted property.
- I. Reuses a vacant or underutilized property.
- J. Development of an environmentally impaired site.
- K. Greater than 50% of first floor frontage is transparent windows.
- L. Provides enclosed off street parking hidden from street view.
- M. High quality and general compatible architectural design and materials.
- N. Bonus Criteria.
 - 1. Provides rental apartments.
 - 2. Provides workforce housing.
 - 3. Project has obtained a LEED designation indicating high level of sustainability in design and construction.
 - 4. Approved deconstruction techniques for demolition work.
 - 5. Creates or enhances downtown parks, plazas or greenways.
 - 6. Adds street activity, such as outdoor eating areas or public art space.
 - 7. Accommodations for bike racks, transit shelters and other pedestrian amenities.

(iii) For projects proposed in the CDA outside the Downtown Development Tier and Targeted CDA Corridors. The following additional factors will be considered for projects to be located in the CDA outside the Downtown Development Tier and Targeted CDA Corridors:

- A. Significant office space projects greater than 3,000 square feet.
- B. Renovation and reuse of existing retail and industrial buildings exceeding 3,000 square feet.
- C. New or adaptive reuse housing construction of 50 or more units.
- D. Extent market is already supporting similar projects in the area.
- E. Appropriate rehabilitation of contributing building in a designated historic district or individually listed historic property.
- F. Project is mixed-use.
- G. Project promotes compact, efficient development.
- H. Provides neighborhood businesses and services to underserved areas.
- I. Eliminates a blighted property.
- J. Reuses a vacant or underutilized property.

- K. Development of an environmentally impaired site.
- L. Compatible with surrounding developments or with objectives contained in an adopted neighborhood, corridor or activity center plan.
- M. Adds pedestrian amenities, such as first floor retail, outdoor eating areas, connected sidewalks, street trees, on-street parking, and public art space.
- N. Provides connected and shared access and parking areas.
- O. Provides additional off-street parking screened from street view.
- P. High quality and generally compatible architectural design and materials.
- Q. Makes provisions for transit-oriented development.
- R. Bonus Criteria.
 - 1. Has a strong plan for hiring residents from the immediate area.
 - 2. Plan includes mixed-use development with a quality housing component.

(iv) For projects proposed in the Targeted Areas beyond the CDA. The following additional factors will be considered for projects to be located in Targeted Areas beyond the CDA:

- A. In compliance with Connections 2025 Generalized Future Land Use Map.
- B. Catalyst Project.
- C. Documentation submitted showing site has been considered by 2 or more prospects in the past 24 months.
- D. Transportation access to site for employees and trucks.
- E. Environmental suitability of site for intended use.
- F. Development standards.
- G. Bonus Criteria
 - 1. Site plan layout exhibits good accessibility and connectivity.
 - 2. Site has good highway frontage to promote regional economic development.
 - 3. Located in a designated transit route or corridor.
 - 4. Promotion of green building techniques in site planning and development standards.

(v) In addition, a project that is requesting public funding for site improvements should attempt to incorporate into its design as many of these features as is feasible. How these criteria are addressed in a project design should be a factor in determining a project's overall merit:

- A. Project is consistent with the most recent comprehensive plan and any applicable adopted small area plan.
- B. Project attempts to minimize adverse impacts on roads serving nearby properties, and project design attempts to minimize traffic impact within the development.
- C. Project's open space planning takes steps to conserve and protect the site's most significant and sensitive natural resource features, including steep slopes, stream buffers, Durham inventory sites, specimen trees, and the 100-year floodplain.
- D. Project structures are placed on site to minimize site grading.

- E. Project buildings are architecturally compatible with one another.
- F. Identified historic sites are preserved.
- G. Project complies with the TTA Station Guidelines applicable within any of the Compact Neighborhoods as designated in the Comprehensive Plan.
- H. Project complies with the Durham Design Guidelines applicable in the Downtown Development Tier(s) as designated in the Durham Comprehensive Plan.
- I. Project makes all reasonable connections to pedestrian, transit, and bicycle networks off-site.
- J. Project located in a transit corridor shows dedicated “Park and Ride” lots.
- K. Project’s landscaping plan is sensitive to its specific site location, and complies with the Landscape Guidelines for Durham, North Carolina as maintained in the City-County Planning Department.

7. Taxes and Fees. Nothing in this policy shall be construed to relieve any obligation to make payment of any fee or charge, including but not limited to taxes, capital facility fees, impact fees, frontage fees, inspection fees, or other development fees. No incentive payment will be made to a business when it is not incorporated, in violation of the City’s privilege tax ordinance or delinquent in other debts owed to the City, including but not limited to property taxes and assessments.

8. Public Hearing. All appropriations or expenditures, and all incentive agreements, made under this policy will be considered by the City Council for approval after a public hearing, excluding (a) those appropriations or expenditures and incentive agreements made pursuant to (i) Section 2(g) (Building Improvement Grant), (ii) Section 2(h) (Retail and Professional Services Grants), and (b) when the incentive agreement amount is within the contracting authority of the City Manager and/or his designee pursuant to City Council approved resolution. When a public hearing is required, the City Manager may set the hearing without the necessity of Council action. The hearing will be held before the approval of an incentive agreement requiring City Council approval that incorporates an appropriation pursuant to this policy. When published notice is required by law, the City Manager shall publish notice of the hearings once at least ten days (including weekends) before the hearing is held. The notice will be in the daily newspaper and will briefly describe the proposal to make the appropriations or expenditures, including the following information when relevant: the amount of the appropriations or expenditures being considered, the improvements or activities being funded with City funds, the number of new jobs to be created or jobs to be retained to qualify for City funds, the source of the funding (when City property is involved as a potential incentive), the public benefit to be derived, and such other information needed to reasonably describe the proposal.

9. City Not Obligated or Limited. Payments by the City shall be allowed only pursuant to an incentive agreement. This policy states the minimum requirements of the agreements, and nothing in this policy is intended to prohibit an agreement that imposes additional conditions precedent to City payments. The statements contained in this policy are guidelines and shall neither obligate the City to pay any money, nor limit the discretion given to the City Council for the promotion of economic development under G.S. § 158-7.1 and other applicable laws. Any assistance will be limited by the availability of funds, which determination of availability shall be made by the City Council at the time of the consideration of the appropriations or expenditures.

10. Local Government Budget and Fiscal Control Act. Any appropriations or expenditures made to an enterprise or project shall be subject to applicable provisions of the Local Government Budget and Fiscal Control Act. The City shall make such disclosures in such detail as the Local Government Commission may direct.

592
593 11. Enabling Legislation. All appropriations and expenditures made under this policy shall be
594 funded by the levy of property taxes pursuant to G.S. chapter 160A, and by the allocation of other
595 revenues whose use is not restricted by law. This resolution is adopted pursuant to G.S. § 158-
596 7.1.

597
598 12. Authority Delegated to City Manager. Except to the extent prohibited by law and where the
599 total city monetary incentive value does not exceed \$50,000 for any single instrument, including
600 all amendments, the City or City Manager's designee is authorized to make, approve, award,
601 amend, and execute instruments described under the following Incentive Programs without a
602 prior public hearing: 2(g) (Building Improvement Grants) and 2(h) (Retail and Professional
603 Services Grants). The City Manager may appoint only City employees as the City Manager's
604 designees under this section. All such appointments must be made in writing by the City
605 Manager and must specify the type and limits of the designee's authority. The instruments
606 containing appointments are to be maintained as required by the records retention schedule.
607

608 13. Ability to Combine Incentive Programs. The same applicant may apply for the Building
609 Improvement Grant and Retail and Professional Services Grant; however, the maximum eligible
610 grant amount to be paid on more than one of the aforementioned grants at the same time shall be
611 \$95,000. The combined lifetime maximum total of incentives that a property address can receive
612 on any of the aforementioned grants is \$285,000. An applicant will have a lifetime funding
613 maximum of \$285,000 and if a property changes ownership that property will only be eligible to
614 receive incentives after 10 years from the last issuance of incentive payments.
615

616 14. Reservation of Discretionary Authority by City. As part of the evaluation and consideration
617 of eligible projects for any of the economic incentive programs identified in the Policy, the City
618 reserves complete discretion in determining what eligible projects warrant city incentive
619 agreements. No business in which a minor must get parental or guardian consent in order to
620 receive services and/or enter into a retail transaction shall be allowed to apply for assistance
621 under this policy.
622

623 15. Effective Date; Repeal of Prior Resolutions. This policy may be used in conjunction with
624 any other economic development or water and sewer extension policies, programs, resolutions,
625 and ordinances, and nothing in this resolution is intended to affect their operation. This
626 resolution repeals the Resolution Establishing an Economic Development Financial Assistance
627 and Incentive Policy for Job Creation, Job Retention and Capital Investment adopted on April 11,
628 2011, provided that any agreements entered into pursuant to those resolutions shall not be
629 affected by the repeal.
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